

July 12, 2005

Cannon Michael, President
San Luis Resource Conservation District
11704 W. Henry Miller Road
Dos Palos, California 93620

Lydia A. Beiswanger, Chief Clerk
Merced County Board of Supervisors
2222 "M" Street
Merced, California 95340

**Re: Your Joint Request for Advice
Our File No. A-05-068**

Dear Mr. Michael and Ms. Beiswanger:

This letter is in response to your joint request for advice regarding the potential application of certain conflict-of-interest provisions of the Political Reform Act (the "Act")¹ as applied to the San Luis Resource Conservation District.

QUESTIONS

1. Is Merced County the code reviewing body for the San Luis Resource Conservation District?
2. Is the San Luis Resource Conservation District's 18-year-old exemption, from having to file a conflict-of-interest code, still valid?

CONCLUSIONS

1. No. Because San Luis Resource Conservation District is a multi-county agency, its code reviewing body is the Fair Political Practices Commission. Therefore, the San Luis Resource Conservation District should not submit a conflict-of-interest code to Merced County for its review.

¹ Government Code sections 81000 – 91014. Commission regulations appear at title 2, sections 18109-18997, of the California Code of Regulations. All further references to statutory "sections" will be to the Government Code and all further references to "regulations" will be to title 2 of the California Code of Regulations, unless otherwise indicated.

2. Undetermined. It is the Executive Director of the Commission (and not the Commission's Legal Division) who has the power to determine whether any public agency is exempt from having to file a conflict-of-interest code. Therefore, your request has been referred to the Commission's Executive Director for a response.

FACTS

Mr. Michael is the Chairperson of the San Luis Resource Conservation District ("District"). Mr. Michael received correspondence from Ms. Beiswanger, the Chief Clerk of the Merced County Board of Supervisors, dated November 12, 2004, informing the District that it had not submitted a conflict-of-interest code for 2004. That letter indicated that the District would therefore be noted as a "Non-Responsive District." Mr. Michael enclosed this notice for our review, as well as copies of correspondence dated 1978 between the District and the Fair Political Practices Commission ("Commission"), indicating that the District was determined by the Commission to have been exempt from having to adopt a conflict-of-interest code in 1978.

ANALYSIS

With regard to the first question, Section 82011, subdivision (a), states that the Commission is the code reviewing body for "any local government agency with jurisdiction in more than one county." (See also Regulation 18750.1.) A "local government agency" means "a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing." (Section 82041.) In 1978, the Commission granted an exemption under regulation 18751.

In Mr. Michael's May 9, 2005 telephone conversation with the Commission, he indicated that the District is a regional political entity which currently covers land found in both Merced and Fresno Counties.²

Since the District fits the definition of a local government agency with jurisdiction in more than one county, we have determined that the District's code reviewing body is not the Merced County Board of Supervisors, but continues to be the Commission. Therefore, the power to require the District to either submit a conflict-of-interest code, or to be exempt from that requirement, lies with the Commission and not with Merced County.

With regard to the second question, since conflict-of-interest code exemptions (for which the Commission is the conflict-of-interest code reviewing body) are granted and denied under the authority of the Commission's Executive Director, we in the Commission's Legal Division have forwarded this correspondence along to the Executive Director for an evaluation as to whether the District's exemption is still valid.

² Mr. Michael indicated that of the 65,000 acres covered by the District, approximately 20-30 acres of land is located in Fresno County; the rest is located in Merced County.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel

By: Andreas C. Rockas
Staff Counsel, Legal Division

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